



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2020

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.14414 of 2015

WEB COPY

R.Umayal

... Petitioner

VS

The Commissioner,
Sattur Municipality,
Virudhunagar District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondent to shift the electrical motor installed in front of the petitioner's property situated at D.No.62, Mariammankoil Street to some other place.

For Petitioner

:Mr.S.Meenakshi Sundaram
Senior Counsel
for Mr.K.Karthick

For Respondent

:Mr.T.Logaiasamy

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus to direct the respondent to shift the electrical motor installed in front of the petitioner's property situated at D.No.62, Mariamman Koil Street, Sattur, to some other place.

2.The petitioner purchased the land along with a housing bearing D.Nos.92 and 62 under a registered sale deed, dated 24.12.1997. It is stated by the petitioner that she is in possession and enjoyment of the property right from the date of purchase and that she has also let out the house on rental basis and a small portion was also let out for commercial purpose.

3.From the photographs produced before this Court, originally the building purchased by the petitioner has a frontage with a closed portion measuring about 5 feet and a gate for free ingress and egress. Anyone, who purchase such property, would like to



expand the main gate, so as to have easy access. It appears that the petitioner, after demolition of the entire house, put up a new house and provided a gate for his convenience. Because of the new construction put up by the petitioner, the electrical motor put up by the respondent is now located just in front of the main gate, that has now been put up by the petitioner. The electrical motor installed in front of the petitioner's house is blocking the new gate put up by the petitioner.

4.It is admitted that the electrical motor alone is installed in front of the petitioner's house and the bore well is located just on the opposite side of the same street. Hence, shifting of electrical motor will not affect the existing bore well, which is exploited by the respondent for drinking water purpose.

5.It is in that view of the matter, this Court suggested the respondent to come forward with a solution, so that there will be shifting of electrical motor, which is in front of the petitioner's house, to the opposite side of the street, at the cost of the petitioner herself. The learned Counsel for the respondent, however, on instructions, submitted that the cost of shifting of electrical motor will be around Rs.30,000/-, which is most unreasonable and therefore, the intention of the respondent is very clear, as it is always expected by the public. The Commissioner, Sattur or any other local body, is expected to function to serve the interest of public.

6.Having regard to the conduct of the respondent, this Court is convinced that the respondent need not be shown any lenience. The inconvenience, which is purely by the location of the electrical motor, can be arrested by directing the respondent to shift the electrical motor without burdening the petitioner anymore.

7.It should be remembered that every members of public is entitled to enjoy their property without causing any hindrance or inconvenience to the member of the public. Everyone, who is having his property abutting a public road, is entitled to have access from every inch of his property. In this case, the electrical motor is located in a public street. Though the petitioner's construction originally was with a small gate for her access, which did not pave way for any complaint earlier, by the construction of her house extending the entrance, the electrical motor has now become a nuisance to the petitioner. This can be set right by the local body which is meant for providing basic amenities and service to the public. In that view of the matter, the respondent is directed to shift the electrical motor installed in front of the petitioner's property situated at D.No.62, Mariammankoil Street, Sattur, which is



in front of the entrance to her house, to any other place, so that the petitioner can use the place, within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is allowed. No costs.

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Sd/-

Assistant Registrar (P AND A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Cmr

+1 CC to M/s.T.LOGAIASAMY, Advocate (SR-815[F] dated 08/01/2020)

+1 CC to M/s.K.KARTHIK, Advocate (SR-1001[F] dated 09/01/2020)

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